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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/566,475	01/31/2006	Roberto Conti	02334900313	5100
4372	7590	01/15/2008	EXAMINER	
ARENT FOX LLP 1050 CONNECTICUT AVENUE, N.W. SUITE 400 WASHINGTON, DC 20036			DURAND, PAUL R	
			ART UNIT	PAPER NUMBER
			3721	
			NOTIFICATION DATE	DELIVERY MODE
			01/15/2008	ELECTRONIC

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

DCIPDocket@arentfox.com
IPMatters@arentfox.com
Patent_Mail@arentfox.com

Office Action Summary

Application No.

10/566,475

Applicant(s)

CONTI, ROBERTO

Examiner

Paul Durand

Art Unit

3721

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-11 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-8 and 10 is/are rejected.
- 7) ☒ Claim(s) 9 is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 31 January 2006 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d), or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
- 1) ☒ Certified copies of the priority documents have been received.
 - 2) ☐ Certified copies of the priority documents have been received in Application No. ____.
 - 3) ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date 1/31/2006.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____.
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: ____.

DETAILED ACTION

Information Disclosure Statement

1. The information disclosure statement filed 1/31/2006 fails to comply with 37 CFR 1.98(a)(2), which requires a legible copy of each cited foreign patent document; each non-patent literature publication or that portion which caused it to be listed; and all other information or that portion which caused it to be listed. It has been placed in the application file, but the information referred to therein has not been considered.

Copies of foreign patent documents EP 0 432 126 and DE 199 20 835 have not been received.

Claim Objections

2. Claims 1-11 are objected to because of the following informalities:

The preamble of the claims recites an apparatus for dosing and forming pods. However, there does not appear to be any structural elements for forming the pods. Applicant's specification discloses that the formation of the pads occurs on a separate apparatus.

In claim 7; the claim is dependant on claims 5 and 6. It should be claims 5 or 6.

In general, the claims are replete with functional recitations which attempt to define the features of the apparatus. While it is not improper to include functional limitations in the claims, an apparatus claim must be distinguished over the prior art in terms of structure rather than function. *In re Schreiber*, 128 F.3d 1473, 1477-78, 44 USPQ2d 1429, 1431-32 (Fed. Cir. 1997). See also MPEP § 2114.

Although the functional limitations have been considered, they are not afforded patentable weight.

Appropriate correction is required.

Claim Rejections - 35 USC § 112

3. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

4. Claims 4-10 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

In claim 4, it is unclear to the examiner if the formation means is the same as the made in means recited in claim 1.

In claim 5, the claim recites a revolving drum and a drum.

In claim 6, "cylinder" lacks antecedent basis.

In claim 7, it is unclear to the examiner what new structure is being claimed in the claim. The claim appears to be a recitation of the function of the cam.

In claim 8, it is unclear to the examiner if the cam is adjustable or if the profile of the cam adjusts the position of the piston or if the piston movement, in function with the cam is adjustable as there are no structural elements for adjustability recited either in the specification or the claims.

Claim Rejections - 35 USC § 102

5. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

6. Claims 1-7 and 10 are rejected under 35 U.S.C. 102(b) as being anticipated by Romagnoli (US 4,437,294).

In claim 1, Romagnoli discloses the invention as claimed including a device for forming pods comprised of a station 2, for feeding product 3, into at least one forming impression 5, defining a single dose of the product and made in means (generally indicated by drum 1), for forming a respective compressed disk 16 (See entire document).

In claim 2, Romagnoli discloses the invention as claimed including the forming depression 5, is moved by the means 1, along a circular path "f" (See figures 1 and 3).

In claim 3, Romagnoli discloses the invention as claimed including supporting station 12 for supporting and feeding filter material 9 (See figure 1).

In claim 4, Romagnoli discloses the invention as claimed including the product feed station comprised of an arc shaped fixed hopper 2, facing a revolving drum 1 (See figures 1 and 3).

In claim 5, Romagnoli discloses the invention as claimed including revolving drum 1, equipped with a plurality of pistons 7, arranged radially on the surface of the drum (8) and having a hollow head (generally shown by the bevel portion

in figure 3) forming an impression and designed to receive a dose of the product fed by the feed station, radial drive means (not shown), imparting synchronized movements to the pistons (See entire document).

In claim 6, Romagnoli discloses the invention as claimed including cam means including profile 22, engaged by follower 21 attached to each piston assembly, connecting rod 20, attached to the cylinder 7 (See figures 1-3).

In claim 7 and as best as the examiner can understand the claim, Romagnoli discloses the invention as claimed including the cam means causing each single piston to be positioned according to movements referenced to a relative position or angular section of the circular path "f" and corresponding to a first arc-shaped path section where the piston 7 is radially retracted towards the drum 1 in such a way that the piston moves into a product dosing configuration when it reaches a point corresponding to its bottom dead centre, a second arc-shaped path section for dosing where the piston is initially at the bottom dead centre, in such a manner as to collect as much product as possible in the head, and moves in a radial direction towards the outside of the drum until it reaches the endpoint of the feed station, where there is a wall leveling off the product accommodated in the impression, a third arc-shaped path section for tamping the disc where the piston moves radially towards the outside of the drum and against a stop wall corresponding to its top dead centre where it remains until it starts and a fourth arc-shaped path section where the piston moves back up in order to facilitate detachment of the disc (See entire document)

In claim 10, Romagnoli discloses the invention as claimed including arc-shaped walls 8 and 13, around the outer surface of the drum 1 (See figures 1 and 3).

Claim Rejections - 35 USC § 103

7. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

8. Claim 8 is rejected under 35 U.S.C. 103(a) as being unpatentable over Romagnoli in view of Mattos (US 2,684,186).

As the examiner understands the claim, Romagnoli discloses the invention as claimed including cam 23. What Romagnoli does not disclose is the cam comprised of different arc shaped section and an adjustable upper section.

However, Mattos teaches that it is old and well known in the art to provide a metering drum with a cam 38, having first and second arcuate portion 46 and 48, where the upper first portion 48 adjusts the piston 37 during operation. Additionally, the piston 37 is adjustable through bushing 54 (see figures 1-3, 11 and col. 6, line 38 – col. 7, line 3).

Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to have modified the invention of Romagnoli with the adjusting means as taught by Mattos for the purpose of varying the volume of product captured and dispensed.

9. Claim 11 is rejected under 35 U.S.C. 103(a) as being unpatentable over Romagnoli in view of Lofman et al. (US 6,135,120).

Romagnoli discloses the invention as claimed except for the use of a vacuum operated belt conveyor. However, Lofman teaches that it is old and well known in the art to provide a belt conveyor 23 powered by suction means not shown for the purpose of holding an item in as stable condition (see figure 1 and col. 4, lines 28-64).

Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to have modified the invention of Romagnoli with the conveying means as taught by Lofman for the purpose of holding an item in as stable condition.

Allowable Subject Matter

10. Claim 9 is objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Conclusion

11. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Paul Durand whose telephone number is 571-272-4459. The examiner can normally be reached on 0730-1800, Monday - Thursday.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Rinaldi I. Rada can be reached on 571-272-4467. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.



Paul Durand
January 8, 2008